

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4555 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SHIRISHCHANDRA N JAGIRDAR

Versus

THE ASSTT. COLLECTOR, CHORASI PRANT, SURAT & ORS.

Appearance:

MR GN DESAI for Petitioner

MR NN PANDYA for Respondent No. 1

NONE PRESENT for Respondent No. 2 to 7

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 01/07/96

ORAL JUDGMENT

Heard learned counsel for the parties and perused the order passed by the Assistant Collector, Chorasi Prant, Surat, and the order of the Gujarat Revenue Tribunal, dated 31st January, 1983. One of the contentions raised by the learned counsel for the petitioner is that both the authorities have not taken

into consideration the judgment of this Court in First Appeal No.312 of 1971, decided on 8.5.1979. The petitioner herein, Shri Shirishchandra Natwarlal Jagirdar was the original plaintiff (Respondent) in the suit which has been decided by this Court in First Appeal No.312 of 1971. At page No.4 of this judgment, this Court has held that the plaintiff therein, the petitioner herein, is an agriculturist. The Tribunal has recorded findings in the order impugned in this Special Civil Application, that the petitioner has failed to establish that he is an agriculturist. Non consideration of this document is a serious error which is apperant on face of the orders of the Tribunal as well as of the authority, i.e. Assistant Collector. In the result, this Special Civil Application is allowed and both the orders of Assistant Collector, Chorasi Prant, Surat and that of Gujarat Revenue Tribunal dated 31.1.83 are set aside. The matter is remanded back to the Assistant Collector, Chorasi Prant, Surat, to decide the matter afresh after considering all the materials as well as judgment of this Court passed in First Appeal No.312 of 1971. Looking to the fact that this is an old matter of the year 1980, it is expected of the Assistant Collector concerned to decide the matter as early as possible, say within six months from the date of receiving certified copy of this Order. Rule is made absolute in the aforesaid terms with no order as to costs.

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(sunil)